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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/373,352	08/12/1999	DAVID EMIL EDGREN	ARC2247R1	2512

7590 08/22/2002

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EXAMINER	
CHOI, FRANK I	
ART UNIT	**PAPER NUMBER**
1616	

DATE MAILED: 08/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No.	Applicant(s)	
	09/373,352	EDGREN ET AL.	
	Examiner	Art Unit	
	Frank I Choi	1616	

--Th MAILING DATE of this communication appears on the cover sheet with the correspond nce address --

THE REPLY FILED 08 August 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

   (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____.

3. ☒ Applicant's reply has overcome the following rejection(s): *112 rejection as being moot due to cancellation of claims 21-36.*

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet.*

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☐ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: _____.

   Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☐ Other: _____

JOHN PAK
PRIMARY EXAMINER
GROUP 1600

Continuation of 5. does NOT place the application in condition for allowance because: Applicant argues that the references cited fail to teach or suggests all of the limitations recited in claim 19 or claim 20 in that the specified components and weight percentages are not taught or suggested. However, contrary to Applicant's arguments the components and weight percentages are taught and/or suggested by the prior art. The claimed invention contains a core containing a drug, an interior membrane comprising a polymer posesssing a lipophilic-attracting property, enhancer and optional a surfactant, and exterior membrane comprising a polymer permeable to th passage of an aqueous fluid, a plasticizer, a peptide and optionally a surfactant. The prior art teaches a core containing a drug surround by a hydrophobic layer formed of polymeric substances which contains a water-soluble film forming material such as hydroxyalkyl-celluloses, said hydrophobic layer being coated by a polymeric enteric coating to which a plasticizer can be added. It is further taught that zein can be used in the second layer to enable the dosage form to solubilized in only the limited pH range found in the GI tract and that this can be adjusted by use of hydrophlic polymers. Furthermore, differences in concentration or temperature will not support the patentability of subject matter encompassed by the prior art unless there is evidence indicating such concentration or temperatur is critical. "[W]here the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation." In re Aller, 105 USPQ 233, 235 (CCPA 1955). Herein, although the ranges are not specifiically taught, there exists overlap and/or the optimum ranges can be arrived at through rountine experimentation depending on the desired amount of drug to be delivered, the rate of delivery and the site of delivery. As such, the prior art does teach or suggest all components of the claimed invention.